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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,533	09/22/2003	Yolanda Lewis		4293
7590	02/08/2005		EXAMINER	
Yolanda Lewis Suite 200 31 N. 2nd Street San Jose, CA 95113				ZANELLI, MICHAEL J
		ART UNIT	PAPER NUMBER	3661

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,533

Applicant(s)

LEWIS ET AL.

Examiner

Michael J. Zanelli

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2003 and 30 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 November 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The application filed 9/22/03 has been examined. Claims 1-19 are pending.

2. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

3. The abstract of the disclosure is objected to because it exceeds one paragraph. Correction is required. See MPEP § 608.01(b).

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed elements must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that the application papers filed 9/22/03 included 10 drawings whereas the replacement drawings filed 11/30/04 only include drawings labeled Figure 3 to Figure 6. At least Figures 1 and 2 are missing.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The disclosure is objected to because of the following informalities:

A. The substitute/replacement specification filed 11/30/04 does not appear to be complete when compared with the originally filed specification of 9/22/03. The current specification does not provide Brief Descriptions for Figures 1 and 2 or provide clear support for the subject matter currently recited in the claims. Appropriate correction is required.

6. Claims 2, 7, 13, 14 and 16-18 are objected to because of the following informalities:

A. As per claims 2, 7, 13 and 16-18, the claims should end in a period.

B. As per claim 14, the format of the claim is improper. It is unclear whether applicant is attempting to recite an independent claim (14) followed by 3 dependent claims or a single claim with multiple elements.

Appropriate correction is required.

7. Claims 1-19 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

The claims are each written in independent form (i.e., 19 independent claims), but the manner in which they have been written suggests that various claims should depend from other claims. The claims as a whole merely provide a “list” of features/functions of the “invention” without clearly defining the metes and bounds (i.e., scope) of the “invention” or provide sufficient structure capable of performing the functions recited.

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because it is claiming more than one statutory class of invention (i.e., “apparatus” and “method”). Note that the language used in the above cited statute uses the alternative “or”. Applicant’s attention is directed to the patents cited herein for examples of proper “apparatus” and “method” claims.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3661

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1-19, as can best be interpreted given the numerous deficiencies noted above, are rejected under 35 U.S.C. 102(b,e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over at least Robinson (6,700,493), Nelson et al. (6,333,690) and/or Ruvarac (2004/0183674).

A. As per claims 1-19, as can best be interpreted the claimed subject matter appears to be anticipated/obvious in view of the relevant prior art.

B. Robinson discloses a system and method for tracking objects in which the location and movements of an electronic device attached to an object is monitored from a remote base station (Abs; col. 2, line 66 to col. 3, line 3; col. 3, lines 16-23). Robinson uses microprocessor-based devices with appropriate software to carry out the monitoring and communicating functions, including use of transmitter IDs and encryption technologies (col. 3, lines 16-23, 45-46; col. 5, lines 56-61).

C. Nelson discloses a system for tracking multiple objects which have encoded transmitters ("tags") attached thereto (Abs). The tags are programmed by a tag programmer when a tag to be tracked is entered into the system (col. 4, lines 10-18). A base station receives transmissions from the tags as they move through a given area (col. 4, lines 22-35). The given area or "perimeter" may be defined at the receiver (col. 5, lines 63-64) for a given application. Nelson further suggests providing a hand-held receiver for portable tracking of an object (col. 16, lines 61-64).

D. Ruvarac discloses a system for tracking an object (Abs) in which the base unit may be portable (See Fig. 10). The base unit may track a plurality of objects within a defined range of the base unit and display distance/orientation information relative to the base unit as well as providing alarm conditions [0017]. Ruvarac discloses using the system to track objects, people and/or pets [0018,0082].

E. Each or the above cited documents, alone or in combination, disclose the "features" listed in claims 1-19. Applicant is urged to take these 3 references, and those cited in the accompanying form PTO-892, into account in response to this Office

action. Again the examiner strongly suggests applicant seek guidance from a patent attorney/agent before responding to this action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents are of particular relevance and should be taken into consideration in responding to this Office action.

If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (703) 305-9756. The examiner can normally be reached on Monday-Thursday 5:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz



MICHAEL J. ZANELLI
PRIMARY EXAMINER